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# COUNTY ADVISORY BULLETIN

**CAB**

*Published by: County Commissioners Association of Ohio*

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**BULLETIN 1996-09**

**NOVEMBER 1996**

## **PROHIBITIONS ON INSURANCE COMPANIES FROM INVOKING PENALTIES ON SPECIFIED COUNTY EMPLOYEES WHO ARE INVOLVED IN MOTOR VEHICLE ACCIDENTS**

### **INTRODUCTION**

Motor vehicle accidents are a major source of liability for county government. When a county employee causes an accident the county is often exposed to claims that can be very costly and often result in increased insurance rates.

CCAO Members that participate in the County Risk Sharing Authority (CoRSA) are encouraged to implement loss control programs to improve driver safety and reduce losses. These programs include defensive driving programs, regular review of motor vehicle reports (MVR's) available from the Bureau of Motor Vehicles, the adoption of driver safety guidelines, and regular inspections and maintenance.

While motor vehicle accidents by county employees increase county insurance costs, just exactly how does their involvement in an accident while working for the county affect their personal automobile insurance? Since 1981, certain county employees have been protected from policy cancellations and rate increases on personal auto insurance as a result of accidents experienced while working for the County. Many counties are probably not familiar with this law, and the responsibilities of the county to certify to law enforcement agencies certain information when an employee is involved in a motor vehicle accident.

Recently, the General Assembly enacted Am. Sub S.B. 121, which is effective 11-19-96. One of the provisions of this law that directly impacts county government deals with restrictions placed on an insurance company's ability to penalize county employees who are involved in an accident while driving vehicles when working for the county. The purpose for this CAB is to outline restrictions placed on an insurance company's ability to penalize county employees, to explain the responsibilities of county departments, and to explain other implications the law has on county government.

## **PENALTIES PROHIBITED BY OHIO DEPARTMENT OF INSURANCE**

Under existing law, an insurance company may not consider the fact that an applicant or existing policy holder has been involved in a motor vehicle accident while in a pursuit of his official duties as a law enforcement officer, firefighter, or operator of an emergency vehicle or ambulance. (ORC 3937.41)

The new law expands the list of protected employees to also include county employees who are engaged in mowing or snow and ice removal. The only change in the current law that impacts county government is that these additional employees are now covered under the law. All of the other provisions of the act that relate to county government are already current law that has been in effect since 1981.

For a county employee who is a new applicant for insurance, the insurance company is prohibited from refusing to issue a policy, or increasing the rate, because the employee was involved in a motor vehicle accident while performing county business. For an existing policy holder, the insurance company is prohibited from either increasing the rate, or canceling or non-renewing the policy, because the employee was involved in such an accident. The prohibition does not apply if the employee is involved in a motor vehicle accident, and through the involvement of the accident, is convicted of or pleads guilty to a charge of operating a vehicle while under the influence of alcohol or a drug of abuse.

The law does not apply to an insurer when an employee is driving his/her personal vehicle while doing work for the county, and the employee is involved in an accident. In such situations the insurer may consider the accident when renewing the policy. However, if the employee changes insurance companies, the new carrier is restricted from considering the same accident.

The law also applies only to motor vehicle accidents. If the employee receives any other citation while doing work for the county, the company is permitted to consider the citation while underwriting the employee's personal auto insurance policy.

## **COUNTY EMPLOYEES COVERED BY THE LAW**

Insurance companies are prohibited from considering accidents of policy holders or applicants while in pursuit of official duties as a law enforcement officer, firefighter, or operator of an emergency vehicle or ambulance, or while operating a vehicle engaged in mowing or the removal of snow and ice as a county employee. Therefore, the law applies to the following county departments:

- 1) Sheriff
- 2) County Engineer
- 3) EMS/Ambulance
- 4) EMS/Ambulance of County Hospital that is established under Section 339.02 of the Revised Code

- 5) Security Department of County Hospital, established under Section 339.02 that employs police officers under section 4973.17 of the Revised Code while operating an emergency vehicle.

The law also applies to employees of private ambulance companies that are under contract with the county.

## **COUNTY OBLIGATIONS**

The employer of the law enforcement officer, firefighter, or operator of an emergency vehicle or ambulance, or operator of a vehicle engaged in mowing or snow and ice removal, is responsible for certifying to the State Highway Patrol or law enforcement agency that investigates the accident that the employee was engaged in the performance of official duties at the time of the accident. The employer must designate an official authorized to make the certifications. Therefore, the Sheriff, County Engineer, or other department head needs to appoint someone to make the certifications. Some counties may want to make one person, perhaps the Loss Control Coordinator, responsible for making the Certifications. The designated person should also have the responsibility of investigating the accident, and forwarding the certificate to the law enforcement agency investigating the accident.

## **ENFORCEMENT OF THE LAW**

The State Highway Patrol or law enforcement agency investigating the accident must include the certification in any report of the accident that is forwarded to the Department of Public Safety. They should also forward the certification to the Department of Public Safety if the certification is received after report of the accident has been forwarded to the Department of Public Safety. The Registrar of Motor Vehicles shall not include the accident in the employee's motor vehicle report if the county certifies that the employee was engaged in the performance of official duties at the time of the accident.

The Superintendent of Insurance has the final responsibility for enforcing the law. If an employee feels that an insurance company has violated the law, then the employee may appeal to the Superintendent of Insurance. After a hearing, if the Superintendent determines that the company has violated the law, the Superintendent may require the insurance company to issue a policy, decrease the rate, or reinstate insurance coverage.

## **IMPACT ON COUNTY PERSONNEL AND RISK MANAGEMENT POLICIES AND PROCEDURES**

Several counties have adopted personnel and safety policies relating to employees involved in motor vehicle accidents while doing county work. This law does not prevent a county from taking disciplinary action against employees who are involved in motor vehicle accidents, even if the employee is performing duties that are otherwise covered under this law.

Policies that encourage safe driving, including those that invoke penalties for accidents are both justified and desirable. Accidents do increase county insurance costs, and can result in injuries to both county employees and the public. The law does not prevent an insurance company from considering motor vehicle accidents of county employees while establishing insurance rates for the county. If the employee has a chargeable accident while driving a county vehicle, the law only prohibits the company from increasing the employee's insurance premium. However, the county's premium may increase as a result of the employee's accident. Therefore, there is sufficient justification for the County to apply driver control policies and procedures to any employee who is involved in an at-fault accident, even if the employee is otherwise protected under the law as amended by SB 121.